

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Sharon Halverson,

Civil No. 08-784 (JNE/SRN)

Plaintiff,

v.

REPORT AND RECOMMENDATION

**Michael J. Astrue,
Commissioner of Social Security,**

Defendant.

Lionel H. Peabody, Peabody Law Office, P.O. Box 10, Duluth, Minnesota 55801, on behalf of Plaintiff.

Lonnie F. Bryan, Esq., Office of the United States Attorney, 300 South 4th Street, Suite 600, Minneapolis, Minnesota 55415, on behalf of Defendant.

SUSAN RICHARD NELSON, United States Magistrate Judge

The above-entitled matter is before the undersigned United States Magistrate Judge on Plaintiff's Petition for Approval of an Attorney's Fee Under the Social Security Act [Doc. No. 40], the relevant text of which is codified at 42 U.S.C. § 406(b) and 1383(d). This matter has been referred to the undersigned United States Magistrate Judge for a Report and Recommendation pursuant to 28 U.S.C. § 636(b)(1) and District of Minnesota Local Rule 72.1.

Plaintiff previously petitioned this Court for attorney's fees in the amount of \$6,743.55 pursuant to the Equal Access to Justice Act (EAJA) [Doc. No. 27]. This Court has recommended that Plaintiff's petition for fees under the EAJA be granted. Plaintiff now seeks the same amount of fees reduced by any amount of fees actually awarded under the EAJA. Because this Court recommended that Plaintiff receive the full amount of her requested

attorney's fees pursuant to the EAJA, Plaintiff should not receive any additional fees pursuant to the Social Security Act.

Based on the foregoing, and all the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that Plaintiff's Petition for Approval of an Attorney's Fee Under the Social Security Act [Doc. No. 40] be **DENIED**.

Dated: July 13, 2009

s/ Susan Richard Nelson
SUSAN RICHARD NELSON
United States Magistrate Judge

Under D. Minn. LR 72.2(b), any party may object to this Report and Recommendation by filing with the Clerk of Court and serving all parties by **July 28, 2009**, a writing which specifically identifies those portions of this Report to which objections are made and the basis of those objections. Failure to comply with this procedure may operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals. This Report and Recommendation does not constitute an order or judgment of the District Court, and it is therefore not appealable to the Court of Appeals.